



DEPARTMENT OF AIR QUALITY & ENVIRONMENTAL MANAGEMENT

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Lewis Wallenmeyer Director · Tina Gingras Assistant Director

August 2, 2010

Jared Blumenfeld, Regional Administrator
U.S. EPA Region 9
75 Hawthorne Street
San Francisco, CA 94105

Re: Clark County's Authority to Regulate Emissions of Greenhouse Gases Pursuant to the Prevention of Significant Deterioration and Part 70 Operating Permit Rules (Sections 12.2 and 12.5 of the Clark County Air Quality Regulations)

Dear Mr. Blumenfeld:

In response to the U.S. Environmental Protection Agency's (EPA) request for information in the Prevention of Significant Deterioration (PSD) and Title V Greenhouse Gas (GHG) Tailoring Rule ("final rule"), 75 FR 31514, Clark County, Nevada ("County"), the local air pollution control agency, submits the following for your consideration.

Over the last several years, the County has worked diligently to amend, update and improve its stationary source rules that are currently approved in the Nevada State Implementation Plan (SIP) or authorized by EPA in the County's Title V program. On May 18, 2010, the Clark County Board of County Commissioners adopted new or extensively revised rules applicable to major stationary sources, including PSD and Title V regulations, and repealed the previous rules. With a few exceptions, these newly-adopted rules more faithfully track the federal regulations. They became locally effective on July 1, 2010. The County is in the process of submitting a SIP revision to the State of Nevada and EPA in order to remove the old new source review rules and replace them with the new rules, including the PSD rule. Further, the County is in the process of submitting the newly-adopted Title V rules to EPA for authorization in the County's Title V program.

Although the old PSD rule (previously Section 12 of the Clark County Air Quality Regulations) is no longer part of the Clark County Air Quality Regulations, it is still the SIP-approved rule. In the final rule, EPA has requested that the County, as the local permitting agency, notify EPA if it does not believe that its existing SIP-provided authority to issue PSD permits applies to GHG sources. Please be advised that the existing SIP rule does not provide authority to the County to issue PSD permits to GHG sources. Further, the recently repealed Title V rule (previously Section 19), which is still officially part of the County's authorized Title V program, is not sufficient to provide authority to the County to issue Title V permits to GHG sources.

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Virginia Valentine, PE, County Manager

The County will submit the PSD rule (Section 12.2) and the Title V rule (Section 12.5) for inclusion into the SIP or its Title V program, respectively. As stated above, these newly-adopted rules more closely track federal language and include the term "subject to regulation." Upon approval/authorization by EPA, the PSD and Title V rules, which include this term, will become federally enforceable. However, to complete the process to obtain authority to permit GHG sources, the County will need to go through a regulatory process to adopt EPA's interpretation of "subject to regulation" or take other equally effective action. Nevada Revised Statutes Chapter 445B provides authority to the County, as the designated air pollution control agency, to regulate GHG sources within its jurisdiction. Therefore, no legislative process will be necessary. We will consult with our colleagues at the Nevada Division of Environmental Protection to confirm our interpretation. This statute and others require the County to go through a regulatory process to incorporate federal requirements into the Clark County Air Quality Regulations. The statutes do not provide any mechanism for the County to incorporate federal requirements simply through an interpretation process, one of the methods proposed in the final rule.

The County is cognizant of the January 2, 2011, effective date. During the next few months, the County will review the available options and work with EPA to determine the best approach to be ready to issue federally-enforceable PSD permits and Title V permits to GHG sources in Clark County by January 2, 2011. If EPA and the County work together quickly and efficiently, we should be able to have SIP-approved and authorized rules in place by that time.

If you have additional questions or require clarification on anything in this letter, please contact Tina Gingras, Assistant Director, at (702) 455-1602.

Sincerely,


Lewis Wallenmeyer, Director

cc:

Deborah Jordan, EPA Region IX
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